

**CONSUMER PROTECTION & GOVERNMENT OPERATIONS COMMITTEE
of the
Suffolk County Legislature**

Minutes

A regular meeting of the Consumer Protection & Government Operations Committee was held in the Rose Y. Caracappa Auditorium in the William Rogers Legislature Building, Veterans Memorial Highway, Hauppauge, New York on **June 6, 2002**, at 11:30 a.m.

MEMBERS PRESENT:

Legislator Cameron Alden, Chairman
Legislator Lynne Nowick, Vice Chair
Legislator Bill Lindsay
Legislator Martin Haley

EXCUSED ABSENCE:

Legislator Allan Binder

ALSO IN ATTENDANCE:

Paul Sabatino, Legislative Counsel
Warren Greene, Aide to Legislator Cameron Alden
Charles Gardner, Director of Consumer Affairs
Bruce Dragonette, Assistant Director of Consumer Affairs
Bill Faulk, County Executive's Office, I.R.
Joe Muncey, Budget Review Office
Paul DePasquale, County Executive's Office I.R.
Meghan O'Reilly, Liaison to Presiding Officer Paul Tonna
All Interested Parties

Minutes taken and transcribed by Irene Kulesa, Legislative Secretary

(The meeting came to order at 11:35 a.m.)

CHAIRMAN ALDEN:

We will start the Consumer Protection and Government Operations Committee Meeting. We'll have the Pledge led by Legislator Lindsay.

SALUTATION

CHAIRMAN ALDEN:

We don't have any cards, so I'll just ask Charlie to come on up and give us a little review of what's been going on and the state of affairs. The heating oil isn't all that important at this point but gasoline; maybe a little review of that would be in order.

MR. GARDNER:

Yes, gasoline hasn't moved very much but it has, at least, moved downward within the last couple of weeks by a few pennies. And then we have some of the real cut-rate stations in the dollar thirties. But the average low is around a dollar forty-six, a dollar forty-seven. The average in the County is about a dollar fifty-two. So it's moved downward slightly. And fuel oil is pretty static because basically, they'll stay that way now for the next couple of months barring any unforeseen developments.

CHAIRMAN ALDEN:

Gasoline stocks are stable?

MR. GARDNER:

Mostly there's no refineries burned. There's nothing down for maintenance and it's, yes.

CHAIRMAN ALDEN:

Legislator Nowick?

LEGISLATOR NOWICK:

Charlie, the gasoline that I find along Smithtown that's the most inexpensive? Like a pit stop?

CHAIRMAN ALDEN:

Yes.

LEGISLATOR NOWICK:

Is that all the same quality, good gasoline for your cars? Or are there different qualities?

MR. GARDNER:

No, the only true quality determinate is the octane, 87, 89 and then generally 92 and 93.

LEGISLATOR NOWICK:

There's no such thing as coming from the bottom of the barrel or any other?

MR. GARDNER:

No and we do several hundred tests a year based routinely mostly, but also on complaints. Testing for the quality of gasoline. Years ago, it used to be true that premium gasoline was better for most cars but it didn't have anything to do with octane. It had to do with the fact that, for the most part, the premium gasolines were the only ones that had detergents. But today, all three, all gasoline's have the detergents, even the 87, so that it really is octane. And octane is just a measure of a gasoline's ability to resist knocking in your engine. That's all it is. But with the detergents and all the different grades, there's virtually no -- there's no difference brand to brand. Let's put it like that. Eighty-seven octane gasoline is the same no matter who you buy it from.

LEGISLATOR HALEY:

Charles, Ma'am, interrupt real quick? Charley, tell them about what problems you do run in with certain stations? I mean the octane; the gas they're getting is the same as everyone else's. But sometimes you run into a meter reading problem.

MR. GARDNER:

Oh, yes.

LEGISLATOR HALEY:

Sometimes you run into a dilution problem?

MR. GARDNER:

The biggest problem that we have in the gasoline stations is the stealing that goes on in two different ways. Too many people order a fill-up of regular or a fill-up 87, don't watch the attendant and the attendant dispenses premium. Now, the people are getting what they are paying for but they did not get what they wanted and did not get what they asked for. And they are overcharged to the extent that, if you got a fill-up of regular, depending on the price for instance, you might get let's say fourteen gallons. Well, if he sells you the premium, you're only going to get maybe eleven gallons. You're going to pay for those eleven gallons but it's not what you wanted. They're making more money by selling you premium.

Also if you don't watch the pump, they start at two dollars, say on the pump. They put it in a can. They use it for their own car. They use it for whatever. But the pump is on. There's two dollars on the face of the pump. You come in, order a fill-up, don't look at the pump and they run it up to, let's say, fifteen dollars. Well, you only got thirteen dollars worth of that

gas. You paid fifteen, two dollars goes in the attendant's pocket and thirteen goes in the bosses till. And the same thing at the end. The other -- the conclusion of the sale, a lot of people will pull in and say give me ten dollars worth of regular and give him a ten-dollar bill. The guy only pumps eight dollars. He says okay, done. People don't look at the pump. They pull away. They pay him ten; there's eight bucks on the pump. So eight dollars goes to the boss, two bucks goes to the attendant. Those are the kinds of things that we -- we usually work with the street crime units and the different precincts to set those up.

We -- our van is just about shot. We're hoping that we get a new van in the next two months. Because the van that we -- the undercover van that we use, it has a separate tank in it that our inspectors set up. But it's an eighty-seven and it's just unsafe to use. You know it's an unmarked van with the one way windows in the back, so we can sit in the back and actually watch what's going on. But it's literally ready to fall apart. So we're expecting a new van, I think, in a month, Bruce?

MR. DRAGONETTE:

Yes.

MR. GARDNER:

But that's, as Legislator Haley pointed out, that for the most part, for the violations that are discovered, there are more types of those violations than octane violations. I think in 2001, we only had about fifteen octane violations.

LEGISLATOR NOWICK:

You know, I never thought of that. I never even thought to look at the pump to see if it was going to start at two dollars. And I would say that most consumers do not.

MR. GARDNER:

That's right.

LEGISLATOR NOWICK:

I'm thinking in terms of putting a -- mandating a big sign on the pump, how am I doing? Have you watched that I started at zero?

MR. GARDNER:

Those are our --

LEGISLATOR NOWICK:

Call 1-800 Consumer Protection.

MR. GARDNER:

Yes, in our pamphlets for gasoline, that's one of the things that we emphasize. That you must look at the pump both before and after the sale.

LEGISLATOR NOWICK:

Signs that say how's my driving.

MR. GARDNER:

Now understand, all those types of things don't happen in self-serve. These are full service stations. Self-serve, the only other way they're going to beat you is if the meter has actually been tampered with. And that's very difficult to do these days because of the electronic meters.

LEGISLATOR NOWICK:

I'm going to watch now all the time.

MR. GARDNER:

But the full serve station is where you have to watch. You have to pay attention. Especially

if there's one person in the car and especially if it's a female.

LEGISLATOR NOWICK:

I will be getting out of the car from now on. Can I ask one question? Charlie, Active Appliance, you want to give us an update on that?

MR. GARDNER:

Yes, another frustrating day for Active Appliance. This is the contractor that we had the -- well it's over seven hundred complaints now. Yesterday was, as you know, they after we reported it, they plead guilty to a scheme to defraud felony and yesterday was set for sentencing. They got a new attorney, very conveniently. And he requested a postponement to July 15th, in order for him to review the case. He wants to make an appeal to dismiss the plea and start over again. So that was granted and July 15th, is the date now. We don't think that the judge in this case is going to allow the retraction of the guilty plea. That's the information we received so far. But the case goes on and on.

LEGISLATOR ALDEN:

Legislator Haley?

LEGISLATOR HALEY:

Just to go back to the gas? How many metering troubles have you run into or how many dilution troubles have you run into, if any?

MR. GARDNER:

Again, dilution, not too many. Because again, dilution -- really the only way that you can dilute, so to speak, is by mixing lower octane gasoline with higher octane. You can't mix deliberately anyway, water with gasoline because unfortunately for all us, you know, water and gas don't mix and water doesn't run in your engine. If it did, we'd all be a lot better off. If there's a significant amount of water in the gasoline, the car stops. I mean, we've had cases where literally the cars do not get off the tarmac. Do not get out of the gasoline station because there's been that much water. But that's an accident and people don't do that deliberately, again, because cars don't run on watered gasoline.

LEGISLATOR HALEY:

How about the octane?

MR. GARDNER:

But the octane that's again, we had about fifteen violations last year. The average -- first offense, the average penalty is eight hundred dollars.

LEGISLATOR HALEY:

When we talk about the octane? Is that where they're selecting the wrong octane or they've actually put 87?

MR. GARDNER:

No, they've actually put 87. It's called flashing.

LEGISLATOR HALEY:

In the tank?

MR. GARDNER:

That's correct. What happens a lot of times is, for instance, they'll make a -- there will be an order in for let's say, five thousand gallons of regular. A truck comes in, he gets to about forty two hundred gallons, a regular tank doesn't take any more. He's got eight hundred gallons on the tank, on the truck. Guess where that eight hundred gallons of regular goes? Bingo, into the premium tank. And that immediately dilutes the quality of the premium. Sometimes they get straight deliveries of 87 into the 93 octane underground tanks.

LEGISLATOR HALEY:

You only had fifteen last year?

MR. GARDNER:

Yes, fifteen violations. Yes, it's much better since we started the program of, you know, routine and regular sampling. We used to be in the neighborhood of forty five to fifty five octane violations every year.

LEGISLATOR HALEY:

What about metering?

MR. GARDNER:

Metering? Not -- no, again, because of the proliferation of the electronic devices, they haven't yet caught on.

LEGISLATOR HALEY:

They haven't figured how to do it yet.

MR. GARDNER:

That's correct. But it's kind -- I mean there was a big incident in New York City, where they actually changed the count. The count is -- the electronic is just a -- to count the pulses. That's why the gallons are in thousands. It's a thousand pulses per gallon. And you can change that to, for instance, eight hundred and that's a 20 percent overcharge right off the bat. So they have figured out how to do that in other areas of the country. We have not seen that here yet.

LEGISLATOR HALEY:

But you check that regularly?

MR. GARDNER:

Yes we do. About thirteen thousand gas pumps in the County.

CHAIRMAN ALDEN:

Okay, anything else? Go to the agenda then. We have Introductory Resolution 1639. Establishing web site to list ten worst unlicensed occupational vendors. Let me ask the sponsor to just give us a little overview of that?

LEGISLATOR NOWICK:

Sure, this is going to be a web site that will be created to list the ten worst offenders for contractors that should have been licensed that are not licensed. This is going to be a start. We're going to get up a web site. At least people can click on and will know these people are not licensed. There have been -- there are complaints against them and not to use them.

LEGISLATOR LINDSAY:

Could I just say something?

CHAIRMAN ALDEN:

Legislator Lindsay, sure.

LEGISLATOR LINDSAY:

It will not only list or just be unlicensed or -- I mean, we get a lot of complaints in Consumer Affairs about it, disreputable, you know, they're contractors that don't do the right thing by homeowners. Charlie?

MR. GARDNER:

Well generally speaking, I would support the unlicensed listing because for the -- in almost all of the cases, if we have a licensed contractor who gets into trouble, that trouble doesn't last. Because we have the ability to find them, to get them, to go after them and one or two

things happen. They either -- all of the complaints that we might have are straightened out, or we revoke the license and he then becomes an unlicensed contractor, who would then be on this web site. But as far as a licensed contractor, to say, you know the worst, you know you start getting into subjectivity, its who did a good job and who did a bad job and beauty is in the eyes of the beholder and all that.

The licensed contractors we can -- we have a much better control over, as you know. It's the unlicensed ones that -- especially the ones that are unlicensed that we have complaints. They know that they need a license. They know that we have been trying to get in touch with them and they continue to work and we don't have a handle on them. We really can't get to them. Those are the ones I'd like to put their face and their business logo on every web site and DV monitor we could. That's what I like about it. Because the unlicensed ones are sometimes much more difficult for us to get to. We still get complaints coming in about them. But since we don't have the information, you know, we just don't know where they are and it makes it that much more difficult for us to get them. So in the meantime, if we could at least stop the bleeding by having this on a web site, don't do business with these people.

LEGISLATOR NOWICK:

And also, I think it encourages the consumer to use licensed contractors.

MR. GARDNER:

Yes, yes.

LEGISLATOR NOWICK:

At least, we have some jurisdiction.

LEGISLATOR LINDSAY:

If I may?

CHAIRMAN ALDEN:

Legislator Lindsay?

LEGISLATOR LINDSAY:

And again, Charlie correct me if I'm wrong. But I was on one of the licensing boards and a couple years ago, we had talked about listing all the licensed contractors on a web page.

MR. GARDNER:

That's right.

LEGISLATOR LINDSAY:

And we decided not to do that. Wasn't there an objection?

MR. GARDNER:

Well, the web site now, you can get -- if you have the telephone number, for instance, you can get to the information on that licensed contractor. The controversy there was the County wanted to list all the licensed contractors and then -- but it was kind of working the way, you know, a lot of the data bases work. So that if you had, I'm just going to say ABC Electric Company, is it A period, space, B period space, C period, Electrical Contracting? Because if that's the way we had it listed and you just put in A space, B space, C, it didn't come up.

Or if you started putting in, you know Kingston, as opposed to Kingsbury, they had a little window, so there were ten companies that would show up, all that may be started with KINGS. And some of the complaints we had from the licensed contractors were, it was in a way somebody was -- somebody had just given an estimate for a job. Now that consumer is looking up to see if they have a license and they pull it up and then they see another company that -- he's even closer, he's closer to my place than this guy. And they would then call the other contractor, just because of inadvertently getting to another contractor. So it was those kinds of problems we overcame with -- now if you have the business number

and/or license, you can get to that contractor and find out if they're licensed.

LEGISLATOR LINDSAY:

But my point is this takes the opposite approach. Instead of advertising who has a license, it advertises who's operating out there without a license.

MR. GARDNER:

That one, yes. Not and it's -- these are exclusive. This is not -- you know, they'll both be operating. You can still get to the licensed contractor. Because this will be either a link or a different spot where you can now -- okay, these are the licensed people. By the way, if you want to see the -- who you want to stay away from? You'll be able to see.

LEGISLATOR LINDSAY:

And they'll be listed by name, not telephone?

MR. GARDNER:

I hope by everything. Name, photograph, address, telephone, whatever we have on them. Whatever we think they would be using to advertise in the Pennysaver or on the little business cards stuck under the cork board in the bakery shop, things like that. Those are the people that we can't -- not that we can't get to but it's very difficult. And this would be a good way we think of, you know, at least stopping some jobs or stopping any new jobs, while we're still trying to get to them. I could see a little -- not only an advisory of stay away from these, don't use these contractors but also, if you have any information about them, please contact Consumer Affairs. Because that's the kind of stuff we need. Find out where they're working. And, as you know, we can go right to the job site and nail them.

CHAIRMAN ALDEN:

How many people do we have, as far as on the list of unlicensed that are operating in Suffolk County?

MR. GARDNER:

Oh that varies. You know it's -- in fact, we're probably getting ready to do a, you know, another operation. Because, as you know, every year or so, a year and a half, we usually run some type of sting operation. And those are the people that we have been gathering information on for the past, however, many months.

CHAIRMAN ALDEN:

Is it more than ten? Because -- and I would just ask the sponsor, is it practical to just list everyone that we've got a complaint on? Or why you limited it to just ten?

MR. GARDNER:

I think we'll have to wait and see on that. I mean, there are times where we could be working with thirty or forty unlicensed. But I'm sure we could work that out. The ten worst? For instance, let's say we had forty? Well, so the ten worst would be the top ten. That doesn't mean we can't add the other thirty on.

LEGISLATOR NOWICK:

You also have to remember this is within each category. And the other thing to remember too is if I had my druthers and it's probably overwhelming for your office right now. But of course, later it's they're licensed or unlicensed. If there's complaints, the consumer should have knowledge of that too. Whether they're licensed or unlicensed. If they're not -- if there are complaints against them --

MR. GARDNER:

Well, they can get that now under Freedom of Information. You know just the divulgence of a sheer number of complaints that sometimes is not a good ending. Too many consumers use that as a measure of a quality of a contractor and as Legislator Lindsay knows from his days on the board, that's necessarily so. So that's -- you can get, for instance, over the telephone, whether somebody needs a license for the work that is being performed. If so, do they have a license? When was the license issued? Because that's important. You'd want to

know -- well yes, he's licensed. I spoke to him. But I didn't tell you he got a license last week, as opposed to yes, he's licensed and he's had a license for twenty-five years. So that's a factor in determining when you're doing comparisons.

And are there any open or active investigations. Anything that's closed, whether its violations or complaints, that's Freedom of Information. And understand, all that information that we give out on the phone now, we don't have to. All of that information we give out now can legally be given out just with Freedom of Information and some Consumer Affairs Offices do that. But we divulge that much. But after that, it's not something you really want to -- there's more to it than just a sheer number. So we tell you how to file a Freedom of Information. We send the forms to you. You fill them out and mail it back and then you get a complete listing of everything. But where it's much better controlled.

LEGISLATOR NOWICK:

Also because they're licensed. Because they're licensed and they're in trouble. You could go then after a licensed contractor. It's the unlicensed that are still out there that the public doesn't know and that's who; right now we're targeting.

CHAIRMAN ALDEN:

Okay and as you start voting I'm just going to mention for the record that Allan Binder has an excused absence.

MR. GARDNER:

I would make one note about the -- in the comments, I mean to the legislation, which says the list to be updated every 90 days. I mean that's okay to leave it in there but understand that it would be my policy that that list would be updated pretty much as needed, even daily. Because you've got to understand, if you put something out there in public and we're branding somebody as one of the worst, well if that person -- if we do get to that person and that person comes in and takes care of all the complaints and pays all the fines and pays all the penalties, we don't want to leave him up there for 90 days. So we would work, so that would be updated as needed, even whether it's daily or weekly.

LEGISLATOR NOWICK:

I think the 90 days was more on the other side of it, just so it would at least be updated.

MR. GARDNER:

That's right and I appreciate that. And I would rather have that, so that it would not legislatively overburden the -- I just wanted to let you know, our policy would certainly be updated.

LEGISLATOR NOWICK:

I've been to your department and I know you're overburdened. I've been there. I've seen it so -- I respect that.

CHAIRMAN ALDEN:

You know I might want to do on this because I just have one legal question. And Paul Sabatino has gone in and out of the room a couple times. When he comes back, because if we're creating two classes of unlicensed occupational vendors? One that we're saying is the worst and yet we have a class of unlicensed occupational vendors out there that we're not really identifying. Are we setting ourselves up for -- no, no, you do know because all you're doing is taking the ten worst. So if you have twenty people, that we've got complaints on that they're unlicensed, we're only going to list the ten worst out of that list. I would make a suggestion to actually include everyone that we know about that is unlicensed on the list. And possibly dropping, I don't know what the verbiage would be on your web site, if it stated something to the effect of like these are the ten worst unlicensed? We might not want to create that kind of legal definition or maybe a legal situation where we're going to end up with a lawsuit, where you're identifying me as one of the ten worst unlicensed, yet you didn't even name these other ten or twenty people as being unlicensed vendors. And I'm just making a suggestion.

LEGISLATOR NOWICK:

Okay, I know Charlie; can that be done? Do you have enough manpower?

MR. GARDNER:

Well, as I said, even though I know what the wording says about listing the ten worst. It would be and I think our goal would be to list --

CHAIRMAN ALDEN:

Everyone, right?

MR. GARDNER:

Everyone, as many as possible, sure. And you know, the ten worst, we'd say well, you could say they're the first ten. But I mean, I don't think that we have that many more than ten that we wouldn't be able to list. In other words, we don't have hundreds.

CHAIRMAN ALDEN:

No.

MR. GARDNER:

We don't have hundreds at any one time that we know about. I'd say in the middle of the summer when we get a lot of home improvement people and landscapers running around without a license, I don't know, we might approach, known to us unlicensed, working. I don't know, maybe fifty, sixty.

CHAIRMAN ALDEN:

I like this concept. This is a great concept. The only thing I'd like to see and you just explained it and the sponsor also explained it. That was her intent also to make sure that the public knows about anybody that's out there providing services without a license.

MR. GARDNER:

Sure. I mean, we naturally couldn't make a representation that these are all of the people who are working unlicensed. It's -- it would only be the ones known to us obviously.

CHAIRMAN ALDEN:

Right that are known to us and that I think is a good disclosure. So I'll defer to the sponsor. I'll support it in this way. Or if you want to modify it, I'll support it in a modified way. But whichever way you want to do it.

MR. GARDNER:

Well, I mean -- I think that if we did more than, in other words, if you made a strict reading of this, establish a web site and listing the ten individuals or any of these engaging in occupational requiring a license. Well, so if we listed more than that, I mean, we know what the intent of the legislation is. I mean, I certainly wouldn't have a problem with it. That's a good point. Yes, this is the -- timing is -- yes.

CHAIRMAN ALDEN:

So the motion by Legislator Nowick, second by Legislator Lindsay. All those in favor? Opposed? It's unanimously carried.

INTRODUCTORY RESOLUTIONS:

I.R. NO. 1639-2002 (P) Establishing web site to list ten worst unlicensed occupational vendors. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Lynne Nowick) (Co-sponsors Legislator Alden and Haley)

VOTE: 4-0-0-1 APPROVED

CHAIRMAN ALDEN:

Introductory Resolution 1681 and this is a Local Law to amend process server licensure enforcement and applicability provisions.

LEGISLATOR LINDSAY:

I wish Counsel was here. Because I know this bill has been kicking around for a long time. I know there was some logistical problems with implementation. Charlie, are you aware of the modifications?

MR. GARDNER:

The latest that we have addressed, some of the concerns that we have, the latest amendment, there are still -- the section that references the Licensing Director, being Secretary to the Board, as we have with all of the other Occupational Licensing Boards. The clause though --

LEGISLATOR LINDSAY:

Excuse me, Charlie. The original bill wanted to license the individual Process Servers, right? So the modification is now -- it licenses the owner of the company?

MR. GARDNER:

No, not yet. For instance, we had -- one of the fellows on the Electrical Board yesterday, just happened to mention that he's got a lot of work going on right now. He's got two hundred and eighty employees working for him right now. Now, if the other licensed occupations were treated the way this bill was worded, that would be two hundred and eighty licenses that I'd have to issue. And then when those people left, in August or September, those licenses would be gone as the people turned over. It's -- that's the logistics problem on it. It's not the same as the other -- it's treated differently from all the other licensed occupations. And it would require an enormous amount of continuous maintenance and administration. The turnover would be -- the turnover is what would be enormous. We don't have that in any of the other licensed occupations.

CHAIRMAN ALDEN:

Originally, we had asked for a legal explanation of what 1681 actually tries to accomplish by amending the Process Server license enforcement provisions.

MR. SABATINO:

Well, the two most significant changes are, one is to push back the applicability date by a whole year to July 1st, 2003. I think that was predicated on request from the people administering the program. So the County Executive put that into the proposal. The other significant change is on the standard for penalties; the language is being changed to intentional violation, as opposed to the phrase knowing --

MR. GARDNER:

That's fine.

MR. SABATINO:

I suspect that's something that then came from Consumer Affairs. But those are the two substitutive changes. But then I noticed that on Monday, of this week, somebody did a handwritten note and filed it with the Clerk, so I'm not --

MR. GARDNER:

About the Licensing Director?

MR. SABATINO:

Right.

MR. GARDNER:

Yes, that's a substitutive change that we had asked for.

MR. SABATINO:

But it was handwritten, so I wasn't sure if that was being suggested or if it was actually a change. If it's actually a change, then it's asking for the board to get a Licensing Director

that would be chosen by the board. But I'm not -- well; it was submitted to the Clerk on Monday. I'm just not clear if that's a corrected copy or if it's just handwritten.

MR. GARDNER:

Our problem with it, Counsel is that the wording in this law says a Licensing Director shall be appointed by the Director of the Suffolk County Executive's Office of Consumer Affairs. So far that's the exact same language as with all our other boards. But it's this next clause. Who shall be an experienced Process Server at least five years. That's what throws this into turmoil. Because how am I going to appoint a Licensing Director? We checked with Civil Service, the County Attorney. There is no such title. And where am I going to get a Licensing Director, who shall be an experienced Process Server with at least five years and serve at no -- I'm just going to say, you're going to be the Secretary to the Board? If that clause is removed, then it is the same as -- then Bill Baessler, my Director of Licensing would be the Secretary to the Board, as he is Secretary to all of the other Occupational Licensing Boards.

CHAIRMAN ALDEN:

Charlie, would you feel comfortable if we tabled this for one cycle, so you can get some reconciliation with the County Attorney's Office or the County Executive's?

MR. SABATINO:

The County Executive's bill, I just want to clarify that. This is the County Executive's bill, so we couldn't make the changes.

CHAIRMAN ALDEN:

Oh, no, no, that's what I'm saying.

MR. SABATINO:

Oh, okay.

CHAIRMAN ALDEN:

He can go and reconcile it and do a corrected copy.

LEGISLATOR LINDSAY:

I think a tabling motion is in order. I have a bigger problem with -- Charlie, let me just get this straight. Do you have any idea how many individual licensed Process Servers are out there?

MR. GARDNER:

To the best of our information, meeting with the Trade Groups, the initial -- there seems to be a consensus that the initial licensing would entail anywhere from eight hundred to a thousand.

LEGISLATOR LINDSAY:

Okay.

MR. GARDNER:

And even that is not our biggest concern, as you had discussed last week and asked. It's not so much of getting over that first hump and then okay, now we can take care of it. It's the turnover. If you relate it to the other licensed occupations, it's the same as saying every home improvement contractor has to have a license and all other people that work for him have to have a license. And every electrician has to have a license. And all of the people who work for that electrician has to have a license.

LEGISLATOR LINDSAY:

Okay but the number one question is do you have enough staff to license a thousand new people and continually update?

MR. GARDNER:

No and one of the --

LEGISLATOR LINDSAY:

Let me ask you another question? How -- do you have handle on how many companies are involved?

MR. GARDNER:

To the best of our knowledge, it seems to be somewhere around fifty or sixty.

LEGISLATOR LINDSAY:

Which is a much more doable --

MR. GARDNER:

Much more manageable. We could -- see, one of the reasons we're grateful that the effective date was extended for one year is because that would give us time to -- if the law stays as currently written. Our request was to put it off for a year, so that we could then properly address the needs to enforce this law through the budgetary process by getting the staff. But no, we don't have it obviously. We don't have staff right now to do it.

LEGISLATOR LINDSAY:

But if we license the companies rather than the individuals like we do with all our other licensing, would you need additional staff?

MR. GARDNER:

No.

CHAIRMAN ALDEN:

One of the problems that exists right now though is and Paul Sabatino can correct me if I'm wrong on this. There's an effective date on the initial resolution that's coming up fairly soon. So if we don't do something with it, then we'd be technically in violation of our own law, if we don't have some process in place, modifying it.

MR. SABATINO:

You've got a public hearing, so you're going to have to table it for the public hearing. This other technical issue presumably can be reconciled between now and then. And if you get it adopted on June 25th, which would be the subsequent meeting, we should still be okay.

CHAIRMAN ALDEN:

So Charlie, it's going to get tabled to the -- anyway until the next committee cycle because it's got to go through the public hearing. You've got that -- you know it's a couple week window anyway to go and talk to the County Executive and see if they'll modify the bill. If not, then we'll take it up in committee the next time it comes back to us and we might put our own modification in. But we can't modify the bill ourselves because it's not our bill.

LEGISLATOR LINDSAY:

Well, if -- I mean if we can't get it modified for the 25th, we might have to pass it as is and we have a year to change it.

MR. GARDNER:

That's right.

LEGISLATOR LINDSAY:

The implementation.

MR. GARDNER:

Correct.

CHAIRMAN ALDEN:

So there's a number of different ways we can go about this.

MR. GARDNER:

May I ask a question of Counsel?

CHAIRMAN ALDEN:

Sure.

MR. GARDNER:

Paul, in the penalty section, Paul Section 14? In the A part? Where intentionally was changed to knowingly and we also corrected where it had referenced 10A and 10B. Now it's correctly references Section 11. But the punishment part, the guilty of an un-class misdemeanor? Punishable by a fine of one thousand dollars. That could be -- we had asked to change that so it would be similar to B. In other words, it says by a fine of one thousand dollars.

MR. SABATINO:

That's correct. The only comment I would make is, it's not a legal comment but I mentioned this at two committee meetings ago was that unlike a lot of the other bills that we do on licensing, this bill was worked out with industry representatives. So a lot of the language that you see represents compromises. On that particular clause, legally yes, you can make it up to a thousand, as opposed to a thousand. But I'm only commenting that a lot of what you see, maybe 75 to 80 percent of this bill was worked out with the industries. So it's not one of those cases where we developed the legislation. The industry was basically ignored and we just imposed the terms and conditions. But the answer is yes, from a legal standpoint, you can change this.

MR. GARDNER:

Since we are the -- naturally, we have a great deal of experience with administrative hearings and penalties and etc., I would just call to the attention of the committee that as worded now, where it says punishable by a fine of one thousand dollars. It doesn't say not more than or up to. You realize that a hearing officer or a judge, the law says the penalty is one thousand dollars. So that means that. A Process Server who maintains hundreds of records and on a couple of them wrote down the wrong date, wrote down the wrong address, left out the index number. Guess what, its a thousand dollar fine. If that person inadvertently wore a shirt with an insignia while they served the process, thousand dollar fine. Not first offense, second offence, thousand dollar fine. It says every licensee shall keep complete and accurate records and then there's a whole bunch of information you have to record. Well, if you did a hundred of them and they were right on all of them but you forgot any one of those individual pieces of information; it's a thousand-dollar fine. All we're saying is if the wording said up to or not more than, then we'd be fine with it.

CHAIRMAN ALDEN:

Again, we're going to table it for the public hearing. You've got the opportunity to hit the County Executive or the County Attorney's Office with any changes that you'd like to see them make in it. If they don't make those, then as Legislator Lindsay said, we have a couple of options here. We can pass the bill, which gives us a year and then we can actually write the resolutions that would modify it or if they modified them it might take care of all the problems at one shot. So I'll make the motion to table, second by Legislator Nowick. All those in favor? Opposed? Okay, it's tabled for a public hearing.

I.R. NO. 1681-2002 (P) Adopting Local Law No. -2002, a Local Law to amend process server licensure enforcement and applicability provisions. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (County Executive)

VOTE: 4-0-0-1 TABLED

CHAIRMAN ALDEN:

Just to go back to Introductory Resolution 1639. I'd like, for the record, my name to be added as a co-sponsor. Marty, you interested? And add Legislator Haley as a co-sponsor of that legislation. Okay, jumping into Sense Resolution 41-2002. Memorializing resolution requesting State of New York to authorize Suffolk County to regulate registration and

licensing of taxicabs within the County of Suffolk. This would have to be tabled for a public hearing also, wouldn't it?

MR. SABATINO:

This is a Memorializing Resolution so we can just -- you can hold the hearing if you want. But legally you don't have to but you could, if you wished.

CHAIRMAN ALDEN:

There's a motion on this?

LEGISLATOR LINDSAY:

Paul?

CHAIRMAN ALDEN:

Question?

LEGISLATOR LINDSAY:

I would like to ask the Director again, you know what would this involve for us? I mean it's -- I know it's a long -- we have to get the authority from the State. Say we got the authority?

MR. GARDNER:

I mean it's simple, it's staff.

LEGISLATOR LINDSAY:

Okay but other than some Towns regulate taxi industries?

MR. GARDNER:

I think its Islip, Babylon, Smithtown or Islip. There are three, maybe four that do now. This would cover the ones that don't.

LEGISLATOR LINDSAY:

Okay.

CHAIRMAN ALDEN:

Legislator Lindsay, just to interrupt you for one second. It might be beneficial to have Legislative Counsel, Paul Sabatino just give us a state of affairs, as far as who has the jurisdiction over this at this present time.

MR. SABATINO:

Right now under State Law, the authority to license is granted to the Towns. The Towns are not obligated to exercise that jurisdiction as Mr. Gardner stated. I think it's just two Towns. There might be a third Town but I think its Islip and Babylon have exercised it. This Legislature has probably made a request to the State at least three prior times to get the authorization because it requires an amendment to the State Law and thus far the State has declined. In the past, it's been generated by, you know, constituents have come into Legislators saying that their particular Town doesn't regulate and that would be the genesis of it.

MR. GARDNER:

In answer to that question, it was unsaid many times. If we are to table, we have a great office and a great staff and we can do anything. We just can't do everything.

CHAIRMAN ALDEN:

Legislator Nowick?

LEGISLATOR NOWICK:

A question on regulation? Exactly what does that mean? What kind of regulation? What would we be regulating? Does that just mean --

MR. GARDNER:

Well generally, yes it would be registration of the companies, individual cabs, the fingerprinting of individuals. Whether or not it would extend to an actual license but certainly the people who are operating. Don't forget New York City, they have a whole separate commission. You know Taxi and Limousine Commission takes care of the -- they have about twelve thousand cabs in New York City.

LEGISLATOR NOWICK:

I have a question about Suffolk County. Does the Consumer Affairs Department in any way do and this might be stretching it but I'm thinking, do they do any spot checks on taxicab drivers that I assume are on call eight hours a day. Do you do any type of spot checks to see if they are driving and drinking or drugging or any of the above?

MR. GARDNER:

No, none.

LEGISLATOR NOWICK:

There's no way to regulate any of it?

MR. GARDNER:

We only respond to some of the complaints that we receive that are based in the -- as Counsel said the non-regulated Towns. And generally that has to do with billing or overcharge, or the guy was rude, things of that kind.

LEGISLATOR NOWICK:

My concern with that is, I know that the young people nowadays, very often go out and it's a very big thing nowadays for them to call a cab. And I wondered if we, in any way, regulate the cab drivers who are driving the young people home?

MR. GARDNER:

No and I think that's part of the legislative intent here is to get some of that regulation. We do not.

LEGISLATOR NOWICK:

I would like to see that.

CHAIRMAN ALDEN:

Do we have a motion on Sense Resolution 41? Motion to approve by Legislator Haley, second by Legislator Nowick. All those in favor? Opposed? That passes.

SENSE RESOLUTIONS:

- **NO. 41-2002 (P) Memorializing resolution requesting State of New York to authorize Suffolk County to regulate registration and licensing of taxicabs within the County of Suffolk. (Legislator Fred Towle) ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS**

VOTE: 4-0-0-1 APPROVED

CHAIRMAN ALDEN:

Tabled Sense 33. There's a motion by Legislator Haley to table, seconded by Legislator Nowick. All those in favor? Opposed? Sense 33 is tabled.

TABLED SENSE RESOLUTIONS:

- **NO. 33-2002 (P) Memorializing resolution requesting the Federal Communications Commission (FCC) to step up to the plate and protect Long Island baseball fans by bringing New York Yankee games to Cablevision's basic service package. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Cameron Alden)**

VOTE: 4-0-0-1 TABLED

CHAIRMAN ALDEN:

Anybody else have any other business to come before the committee? Seeing none, hearing none, we stand adjourned. Thank you very much.

MR. GARDNER:

Mr. Chairman, I'd just like to note that I left a copy of the 2001 Annual Report from the office with each of the Legislators.

CHAIRMAN ALDEN:

So noted. Thank you very much Charlie.

(The meeting was adjourned at 12:18 P.M.)

{ } Denotes spelled phonetically